House Engrossed Senate Bill FILED

MICHELE REAGAN
SECRETARY OF STATE

State of Arizona Senate Fifty-third Legislature First Regular Session 2017

# SENATE BILL 1003

#### AN ACT

AMENDING SECTIONS 8-456, 8-501, 8-821, AND 8-823, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 7, ARTICLE 12, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1292; RELATING TO THE DEPARTMENT OF CHILD SAFETY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona: Section 1. Section 8-456, Arizona Revised Statutes, is amended to read:

### 8-456. <u>Investigative function; training; voice stress</u> analysis; recordings; criminal offenses; definition

- A. The department shall train all investigators in forensic interviewing and processes and the protocols established pursuant to section 8-817. The training must include:
- 1. Uniform safety and risk assessment tools to determine whether the conduct constitutes abuse or neglect and the severity of the abuse or neglect.
- 2. The duty to protect the legal and due process rights of children and families from the time of the initial contact through case closure.
- 3. Instruction on a child's rights as a crime victim and instruction on the legal rights of parents.
- 4. A checklist or other mechanism to assist the investigator in giving consideration to the relevant factors in each investigation.
- B. The office of child welfare investigations shall investigate DCS reports that contain a criminal conduct allegation as provided in sections 8-471 and 8-817.
- C. After receiving a DCS report from the centralized intake hotline pursuant to section 8-455, an investigator shall do all of the following:
- 1. Make a prompt and thorough investigation. An investigation must evaluate and determine the nature, extent and cause of any condition created by the parents, guardian or custodian or an adult member of the victim's household that would tend to support or refute the allegation that the child is a victim of abuse or neglect and determine the name, age and condition of other children in the home. If an investigator has sufficient information to determine that the child is not a victim of abuse or neglect, the investigator may close the investigation.
- 2. If required by section 8-821 and subject to section 8-471, take a child into temporary custody. Law enforcement officers shall cooperate with the department to remove a child from the custody of the child's parents, guardian or custodian when necessary.
- D. THE DEPARTMENT MAY NOT USE COVERT VOICE STRESS ANALYSIS DURING AN INVESTIGATION TO DETERMINE IF ABUSE OR NEGLECT EXISTS. THE DEPARTMENT MAY NOT USE OVERT VOICE STRESS ANALYSIS DURING AN INVESTIGATION UNLESS THE PERSON ON WHOM THE ANALYSIS IS USED GIVES INFORMED CONSENT. RESULTS OF COMPUTER VOICE STRESS ANALYSIS ARE NOT ADMISSIBLE IN COURT.
  - D. E. After an investigation, an investigator shall:
- 1. Determine whether any child is in need of child safety services consistent with the evaluation and determination made pursuant to subsection  ${\tt C}$  of this section.

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- 2. If appropriate pursuant to section 8-846, offer to the family of any child who is found to be a child in need of child safety services those services that are designed to correct unresolved problems that would indicate a reason to adjudicate the child dependent.
  - 3. Submit a written report of the investigator's investigation to:
- (a) The department's case management information system within a reasonable amount of time that does not exceed forty-five days after receipt of the DCS report except as provided in section 8-811. If the investigation involves allegations regarding a child who at the time of the alleged incident was in the custody of a child welfare agency licensed by the department under this title, a copy of the report and any additional investigative or other related reports must be provided to the board of directors of the agency or to the administrative head of the agency unless the incident is alleged to have been committed by the person. The department shall excise all information with regard to the identity of the source of the reports.
- (b) The appropriate court forty-eight hours before a dependency hearing pursuant to a petition of dependency or within twenty-one days after a petition of dependency is filed, whichever is earlier. On receipt of the report the court shall make the report available to all parties and counsel.
- 4. Accept a child into voluntary placement pursuant to section 8-806.
- 5. Identify, promptly obtain and abide by court orders that restrict or deny custody, visitation or contact by a parent or other person in the home with the child and notify appropriate personnel in the department to preclude violations of a court order in the provision of any services.
- $\overline{E}$ . F. In conducting an investigation pursuant to this section, if the investigator is made aware that an allegation of abuse or neglect may also have been made in another state, the investigator shall contact the appropriate agency in that state to attempt to determine the outcome of any investigation of that allegation.
- f. G. If an investigation indicates a reason to believe that a criminal offense has been committed, the investigator shall immediately provide the information to the appropriate law enforcement agency and the office of child welfare investigations, unless the information was previously provided pursuant to section 8-455.
- H. EXCEPT IN JUDICIAL PROCEEDINGS, A PARENT OR LEGAL GUARDIAN MAY NOT BE PROHIBITED FROM RECORDING CONVERSATIONS WITH THE DEPARTMENT PURSUANT TO THIS SECTION.
- $rac{G.}{C.}$  I. For the purposes of this section, "investigator" means an employee of the department who investigates allegations of abuse or neglect pursuant to a DCS report.

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Sec. 2. Section 8-501, Arizona Revised Statutes, is amended to read:

### 8-501. <u>Definitions</u>

- A. In this article, unless the context otherwise requires:
- 1. "Child developmental certified home" means a regular foster home that is licensed pursuant to section 8-509 and that is certified by the department of economic security pursuant to section 36-593.01.
  - 2. "Child welfare agency" or "agency":
  - (a) Means:
- (i) Any agency or institution that is maintained by a person, firm, corporation, association or organization to receive children for care and maintenance or for twenty-four hour social, emotional or educational supervised care or who have been adjudicated as a delinquent or dependent child.
- (ii) Any institution that provides care for unmarried mothers and their children.
- (iii) Any agency that is maintained by this state, a political subdivision of this state or a person, firm, corporation, association or organization to place children or unmarried mothers in a foster home.
- (b) Does not include state operated institutions or facilities, detention facilities for children established by law, health care institutions that are licensed by the department of health services pursuant to title 36, chapter 4 or private agencies that exclusively provide children with social enrichment or recreational opportunities and that do not use restrictive behavior management techniques.
  - 3. "Division" or "department" means the department of child safety.
- 4. "Former dependent child" means a person who was previously adjudicated a dependent child in a dependency proceeding that has been dismissed by order of the juvenile court.
- 5. "Foster child" means a child placed in a foster home or child welfare agency.
- 6. "Foster home" means a home that is maintained by any individual or individuals having the care or control of minor children, other than those related to each other by blood or marriage, or related to such individuals, or who are legal wards of such individuals.
- 7. "Foster parent" means any individual or individuals maintaining a foster home.
- 8. "Group foster home" means a licensed regular or special foster home that is suitable for placement of more than five minor children but not more than ten minor children.
- 9. "Out-of-home placement" means the placing of a child in the custody of an individual or agency other than with the child's parent or legal guardian and includes placement in temporary custody pursuant to section 8-821, subsection A or B, voluntary placement pursuant to section 8-806 or placement due to dependency actions.

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- 1 10. "Parent" means the natural or adoptive mother or father of a 2 child.
  - 11. "Reason for leaving care" means one of the following:
  - (a) Reunification with a parent or primary caretaker.
  - (b) Living with another relative.
  - (c) Adoption by a relative.
  - (d) Adoption by a foster parent.
  - (e) Adoption by another person.
  - (f) Age of majority.
  - (g) Guardianship by a relative.
  - (h) Guardianship by another person.
    - (i) Transfer to another agency.
    - (j) Runaway.
      - (k) Death.
  - 12. "Receiving foster home" means a licensed foster home that is suitable for immediate placement of children when taken into custody or pending medical examination and court disposition.
  - 13. "Regular foster home" means a licensed foster home that is suitable for placement of not more than five minor children.
  - 14. "Relative" means a grandparent, great-grandparent, brother or sister of whole or half blood, aunt, uncle or first cousin.
  - 15. "Restrictive behavior management" means an intervention or procedure that attempts to guide, redirect, modify or manage behavior through the use of any of the following:
  - (a) Physical force to cause a child to comply with a directive. Physical force does not include physical escort. For the purposes of this subdivision, "physical escort" means temporarily touching or holding a child's hand, wrist, arm, shoulder or back to induce the child to walk to a safe location.
  - (b) A device, action or medication to restrict the movement or normal function of a child in order to control or change the child's behavior and that includes:
  - (i) Chemical restraint. For the purposes of this item, "chemical restraint" means the use of any psychoactive medication as a restraint to control the child's behavior or to restrict the child's freedom of movement and that is not a standard treatment for the child's medical or psychiatric condition.
  - (ii) Mechanical restraint. For the purposes of this item, "mechanical restraint" means the use of any physical device to limit a child's movement and to prevent the child from causing harm to self or to others. Mechanical restraint does not include devices such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets or any other method that involves the physical holding of a child to conduct a routine physical examination or test or to protect

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the child from falling out of bed or to permit the child to participate in activities in order to reduce the risk of physical harm to the child.

- (iii) Physical restraint. For the purposes of this item, "physical restraint" means applying physical force to reduce or restrict a child's ability to freely move the child's arms, legs or head. Physical restraint does not include temporarily holding a child to permit the child to participate in activities of daily living if this holding does not involve the risk of physical harm to the child.
- (iv) Seclusion. For the purposes of this item, "seclusion" means placing a child against the child's will in a room in which the child is unable to open the door in order to prevent the child from doing harm to self or others.
- 16. "Special foster home" means a licensed foster home that is capable of handling not more than five minor children who require special care for physical, mental or emotional reasons or who have been adjudicated delinquent. Special foster home includes any home handling foster children aged twelve through seventeen.
- B. A foster home or any classification of foster home defined in subsection A of this section includes a home having the care of persons who are under twenty-one years of age and the cost of whose care is provided pursuant to section 8-521.01.
- Sec. 3. Section 8-821, Arizona Revised Statutes, is amended to read:
  - 8-821. <u>Taking into temporary custody: medical examination:</u> <u>placement; interference; violation; classification</u>
- A. A child shall be taken into temporary custody in proceedings to declare a child a temporary ward of the court to protect the child, ONLY pursuant to ONE OF THE FOLLOWING:
  - 1. An order of the juvenile SUPERIOR COURT.
  - 2. SUBSECTION D OF THIS SECTION.
  - 3. THE CONSENT OF THE CHILD'S PARENT OR GUARDIAN.
- B. THE SUPERIOR court, on a DEPENDENCY petition by an interested person, a peace officer, A CHILD WELFARE INVESTIGATOR or a child safety worker under oath OR ON A SWORN STATEMENT OR TESTIMONY BY A PEACE OFFICER, A CHILD WELFARE INVESTIGATOR OR A CHILD SAFETY WORKER, MAY ISSUE AN ORDER AUTHORIZING THE DEPARTMENT TO TAKE TEMPORARY CUSTODY OF A CHILD ON FINDING that reasonable grounds exist to believe that temporary custody is clearly necessary to protect the child from suffering abuse or neglect AND IT IS CONTRARY TO THE CHILD'S WELFARE TO REMAIN IN THE HOME.
- C. If a child is taken into temporary custody pursuant to this section, the child's sibling shall also be taken into temporary custody only if reasonable grounds independently exist to believe that temporary custody is clearly necessary to protect the child from suffering abuse or neglect.

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- $8.\,$  D. A child may be taken into temporary custody WITHOUT A COURT ORDER by a peace officer, a child welfare investigator or a child safety worker if temporary custody is clearly necessary to protect the child because probable cause exists to believe that the child is either:
- 1. A victim or will imminently become a victim of abuse or neglect IN THE TIME IT WOULD TAKE TO OBTAIN A COURT ORDER.
- 2. Suffering serious physical or emotional injury that can only be diagnosed by a medical doctor or psychologist.
- 3. Physically injured as a result of living on premises where dangerous drugs or narcotic drugs are being manufactured. For the purposes of this paragraph, "dangerous drugs" and "narcotic drugs" have the same meanings prescribed in section 13-3401.
- 4. Reported by the department to be a missing child at risk of serious harm.
- C. E. In determining if a child should be taken into temporary custody, the interested person COURT, peace officer, child welfare investigator or child safety worker shall take into consideration:
  - 1. As a paramount concern the child's health and safety.
- 2. Whether the parent is willing to participate in any services that are offered to the parent.
- $rac{ extbf{D.}}{ extbf{F.}}$  F. A person who takes a child into custody pursuant to subsection  $rac{ extbf{B-}}{ extbf{D}}$  D, paragraph 2 of this section shall immediately have the child examined by a medical doctor or psychologist. After the examination the person shall release the child to the custody of the parent or guardian of the child unless the examination reveals abuse or neglect. Temporary custody of a child taken into custody pursuant to subsection  $rac{ extbf{B-}}{ extbf{D}}$  D, paragraph 2 of this section shall not exceed twelve hours.
- $\overline{E}$ . G. A child who is taken into temporary custody pursuant to this article shall not be detained in a police station, jail or lockup where adults charged with or convicted of a crime are detained.
- ${\sf F.}$  H. A child shall not remain in temporary custody for more than seventy-two hours excluding Saturdays, Sundays and holidays unless a dependency petition is filed.
- $\mbox{$\mathfrak{G}$.}$  I. A person who knowingly interferes with the taking of a child into temporary custody under this section is guilty of a class 2 misdemeanor.
- Sec. 4. Section 8-823, Arizona Revised Statutes, is amended to read:

### 8-823. Notice of taking into temporary custody

A. If a child is taken into temporary custody pursuant to this article, the interested person, peace officer or child safety worker taking the child into custody shall provide written notice within six hours to the parent or guardian of the child, unless:

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- 1. The parent or guardian is present when the child is taken into custody, then written and verbal notice shall be provided immediately.
- 2. The residence of the parent or guardian is outside this state and notice cannot be provided within six hours, then written notice shall be provided within twenty-four hours.
- 3. The residence of the parent or guardian is not ascertainable, then reasonable efforts shall be made to locate and notify the parent or guardian of the child as soon as possible.
- B. The written notice shall contain a signature line for the parent or guardian to acknowledge receipt of both written and verbal notices. The written and verbal notices shall contain the name of the person and agency taking the child into custody, the location from which the child was taken and all of the following information:
- 1. Specific reasons as to why the child is being removed. The notice shall list the specific factors that caused the determination of imminent danger.
- 2. Services that are available to the parent or guardian, including a statement of parental rights and information on how to contact the ombudsman-citizens aide's office and an explanation of the services that office offers.
  - 3. The date and time of the taking into custody.
- 4. The name and telephone number of the agency responsible for the child.
  - 5. A statement of the reasons for temporary custody of the child.
- 6. A statement that the child must be returned within seventy-two hours excluding Saturdays, Sundays and holidays unless a dependency petition is filed and a statement that a child in temporary custody for examination pursuant to section 8-821, subsection 8- D, paragraph 2 must be returned within twelve hours unless abuse or neglect is diagnosed.
  - 7. One of the following:
- (a) If a dependency petition has not been filed or if the information prescribed in subdivision (b) is not available, a statement that if a dependency petition is filed, the parent or guardian will be provided a written notice no later than twenty-four hours after the petition is filed that contains the information prescribed in subdivision (b).
- (b) In all other cases, the date, time and place of the preliminary protective hearing to be held pursuant to section 8-824 and the requirements of subsection D of this section.
- 8. A statement of the right of the parent or guardian to counsel and that counsel will be appointed pursuant to section 8-221 through the juvenile court if a dependency petition is filed and the person is indigent.

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- 9. Information regarding the ability of the person about whom the report was made to provide a verbal, telephonic or written response to the allegations. A verbal response shall be included in the written report of the investigation. A written response, including any documentation, shall be included in the case file.
- $10.\,$  A statement that the hearing may result in further proceedings to terminate parental rights.
- 11. A statement that the parent or guardian must immediately provide to the department the names, the type of relationship and all available information necessary to locate persons who are related to the child or who have a significant relationship with the child. If there is not sufficient information available to locate a relative or person with a significant relationship with the child, the parent shall inform the department of this fact. If the parent or guardian obtains information regarding the existence or location of a relative or person with a significant relationship with the child, the parent or guardian shall immediately provide that information to the department.
- 12. A statement that the parent or guardian must be prepared to provide to the court at the preliminary protective hearing the names, the type of relationship and all available information necessary to locate persons who are related to the child or who have a significant relationship with the child.
- C. The child safety worker shall provide the parent or guardian with the notice even if the parent or guardian refuses to sign the acknowledgment.
- D. Immediately before the time of the preliminary protective hearing, the persons described in section 8-824, subsection B shall meet and attempt to reach an agreement about placement of the child, services to be provided to the child, parent or guardian and visitation of the child. The parties shall meet with their counsel, if any, before this meeting. Consideration shall be given to the availability of reasonable services to the parent or guardian and the child's health and safety shall be a paramount concern. The persons described in section 8-824, subsection C may attend the meeting to reach an agreement.
- E. If a dependency petition is filed by the department, the child safety worker is responsible for delivering the notice of the preliminary protective hearing prescribed in subsection B, paragraph 7 of this section to the parent or guardian. In all other cases, the person who files the dependency petition is responsible for delivery of this notice to the parent or guardian. If the location of the parent or guardian is unknown, the person who is responsible for serving this notice shall make reasonable efforts to locate and notify the parent or guardian.

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 Sec. 5. Title 41, chapter 7, article 12, Arizona Revised Statutes, is amended by adding section 41-1292, to read:

41-1292. <u>Joint legislative oversight committee on the department of child safety; committee termination</u>

- A. THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON THE DEPARTMENT OF CHILD SAFETY IS ESTABLISHED CONSISTING OF THE FOLLOWING MEMBERS:
- 1. THE CHAIRPERSON OF THE SENATE COMMITTEE THAT ADDRESSES CHILD SAFETY ISSUES.
- 2. THE CHAIRPERSON OF THE HOUSE OF REPRESENTATIVES COMMITTEE THAT ADDRESSES CHILD SAFETY ISSUES.
- 3. TWO MEMBERS OF THE SENATE WHO ARE APPOINTED BY THE PRESIDENT OF THE SENATE AND WHO ARE MEMBERS OF DIFFERENT POLITICAL PARTIES.
- 4. TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES WHO ARE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND WHO ARE MEMBERS OF DIFFERENT POLITICAL PARTIES.
- B. THE CHAIRPERSON OF THE SENATE COMMITTEE THAT ADDRESSES CHILD SAFETY ISSUES AND THE CHAIRPERSON OF THE HOUSE OF REPRESENTATIVES COMMITTEE THAT ADDRESSES CHILD SAFETY ISSUES SHALL SERVE AS COCHAIRPERSONS.
- C. THE COMMITTEE SHALL MEET AT LEAST BIANNUALLY, AND A MAJORITY OF THE MEMBERS CONSTITUTES A QUORUM FOR THE TRANSACTION OF BUSINESS.
  - D. THE COMMITTEE SHALL REVIEW:
- 1. THE DEPARTMENT'S IMPLEMENTATION OF POLICY AND PROCEDURES AND PROGRAM EFFECTIVENESS.
- 2. ALL REPORTS ON PROGRAM OUTCOMES RELEASED BY THE DEPARTMENT TO THE LEGISLATURE FOR TRENDS AND AREAS FOR STATUTORY IMPROVEMENT AND AUDITS ISSUED BY THE OFFICE OF THE AUDITOR GENERAL RELATED TO THE DEPARTMENT.
- 3. POLICIES AND PROCEDURES RELATING TO GUARDIANSHIPS AND DEPENDENCY PROCEEDINGS.
- 4. THE COMMITTEE ESTABLISHED BY THIS SECTION ENDS ON JULY 1, 2025 PURSUANT TO SECTION 41-3103.

### Sec. 6. <u>Department of child safety</u>: <u>review of reporting requirements</u>

- 1. Post the proposed consolidated report generated from the recommendations required by Laws 2014, second special session, chapter 1, section 160 on the department's website.
- 2. Hold meetings with stakeholders to discuss potential reports on longer metric outcome data in addition to any other reports prescribed by law.
- 3. Identify metrics, if any, that stakeholders want but that have been omitted from the reports prepared by the department.
- 4. Submit a report to the joint legislative budget committee and the joint legislative oversight committee on the department of child

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safety established by section 41-1292, Arizona Revised Statutes, as added by this act, on all of the following:

- (a) The implementation of the new reporting structure.
- (b) The outcome of stakeholder meetings.
- (c) The identification of new metrics.
- Sec. 7. <u>Implementation of act: report</u>

On or before January 1, 2018, the department of child safety shall do both of the following:

- 1. Consult with the administrative office of the courts to develop systems and procedures to implement section 8-821, Arizona Revised Statutes, as amended by this act.
- 2. Submit a report to the joint legislative budget committee and the joint legislative oversight committee on the department of child safety established by section 41-1292, Arizona Revised Statutes, as added by this act, that includes:
- (a) An overview of how the department will implement the requirement to obtain a court order to remove a child as prescribed in section 8-821, Arizona Revised Statutes, as amended by this act.
- (b) The technological and staffing needs of the department of child safety and the judicial system to implement the requirements of section 8-821, Arizona Revised Statutes, as amended by this act.

Sec. 8. Effective date

Sections 8-456, 8-501, 8-821 and 8-823, Arizona Revised Statutes, as amended by this act, are effective from and after June 30, 2018.

APPROVED BY THE GOVERNOR MAY 8, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 8, 2017.

Passed the House May 4	<b>/</b>	Passed the Senate	Februar	y 28, 20 <u>17</u> ,
by the following vote:57	Ayes,	by the following vote	:: 30	Ayes,
Nays,	Not Voting	0	Nays,	Not Voting
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Secretary of State

## SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate \_/

by the following vote:Ayes,
President of the Senate  Secretary of the Senate
EXECUTIVE DEPARTMENT OF ARIZONA OFFICE OF GOVERNOR
This Bill received by the Governor this  day of
at3:30_o'clockPM.
Secretary to the Governor
day of
lay, 2017
2.23 o'clock P M.
Governor of Arizona
EXECUTIVE DEPARTMENT OF ARIZONA OFFICE OF SECRETARY OF STATE
This Bill received by the Secretary of State
this <u>8</u> day of <u>May</u> , 20 <u>N</u>
at <u>5:58</u> o'clock <u>P</u> M.
Michele Reagan
Secretary of State

Approved this

S.B. 1003